

April 24, 1940

Mr. J. C. Stone, Secretary
Napa Transportation Company
Pier No. 5
San Francisco, California

Dear Sir:

Reference is made to your return to the Board's questionnaire form LQ-2 (revised) with respect to the Napa Transportation Company.

It appears from the information furnished by you that the Company was incorporated in California in March 1936, "To engage in and conduct the business of transportation of persons and property on the inland waters of the State of California and on the highways of the State of California"; and that it has never used any railroad equipment in its operations. It has never been directly or indirectly owned or controlled by or under common control with an express company, sleeping-car company or carrier by railroad, and neither its officers nor its directors have ever been also officers or directors of such a company or carrier.

The company is not a party to contracts with any railroad. It is, however, "a party to joint through tariffs naming rates between Napa, California, on the one hand and points on the Western Pacific Railroad Company and its connections on the other hand. Respondent [the company] handles freight under authority of such rates. This is the only connection which respondent [the company] has, direct or indirect, with rail carriers." In addition, it is a participating carrier in twenty-one freight tariffs, filed under Part I of the Interstate Commerce Act, and issued by the agents of the Pacific Freight Tariff Bureau and the Transcontinental Freight Bureau.

On the basis of the foregoing, I am of the opinion that the Napa Transportation Company (incorporated in California in 1936) has never been an express company, sleeping-car company or carrier by railroad and has never been directly or indirectly owned or controlled by, or under common control with, such a company or carrier. Accordingly, it does not qualify as an "employer" under the Railroad Retirement Act or Railroad Unemployment Insurance Act.

Very truly yours,

Lester P. Schoene
General Counsel